

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Blue Spike, LLC,

Plaintiff,

v.

TEXAS INSTRUMENTS, INC., et al.,

Defendants.

CASE NO. 6:12-cv-499 LED

LEAD CASE

Jury Trial Demanded

Blue Spike, LLC,

Plaintiff,

v.

FULCRUM BIOMETRICS, LLC and
NEUROTECHNOLOGY,

Defendants.

CASE NO. 6:12-cv-610 LED

CONSOLIDATED CASE

Jury Trial Demanded

PLAINTIFF'S REPLY IN RESPONSE TO
DEFENDANT NEUROTECHNOLOGY'S COUNTERCLAIMS

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of NEUROtechnology ("NEUROtechnology" or "Defendant") (Dkt. No. 379) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

COUNTERCLAIMS

1. Plaintiff denies the allegations of Paragraph 1 on the basis that Defendant's incorporation of its Answer and Affirmative Defenses into its Counterclaims is nonsensical.
2. Plaintiff admits the allegations of Paragraph 2.
3. Paragraph 3 does not contain any allegations requiring an admission or denial, but to the extent that Defendant alleges that venue is not proper in this District, Plaintiff denies same.

**COUNT ONE: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '175 PATENT**

4. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 3 above.
5. Plaintiff admits the allegations of Paragraph 5.
6. Plaintiff denies the allegations of Paragraph 6.
7. Plaintiff denies the allegations of Paragraph 7.

**COUNT TWO: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '175 PATENT**

8. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 7 above.
9. Plaintiff denies the allegations of Paragraph 9.
10. Plaintiff denies the allegations of Paragraph 10.

**COUNT THREE: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '494 PATENT**

11. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 10 above.
12. Plaintiff admits the allegations of Paragraph 12.
13. Plaintiff denies the allegations of Paragraph 13.
14. Plaintiff denies the allegations of Paragraph 14.

**COUNT FOUR: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '494 PATENT**

15. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 14 above.
16. Plaintiff denies the allegations of Paragraph 16.
17. Plaintiff denies the allegations of Paragraph 17.

**COUNT FIVE: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '700 PATENT**

- 18. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 18 above.
- 19. Plaintiff admits the allegations of Paragraph 19.
- 20. Plaintiff denies the allegations of Paragraph 20.
- 21. Plaintiff denies the allegations of Paragraph 21.

**COUNT SIX: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '700 PATENT**

- 22. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 21 above.
- 23. Plaintiff denies the allegations of Paragraph 23.
- 24. Plaintiff denies the allegations of Paragraph 24.

**COUNT SEVEN: DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF THE '472 PATENT**

- 25. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 24 above.
- 26. Plaintiff admits the allegations of Paragraph 26.
- 27. Plaintiff denies the allegations of Paragraph 27.
- 28. Plaintiff denies the allegations of Paragraph 28.

**COUNT EIGHT: DECLARATORY JUDGMENT OF
INVALIDITY OF THE '472 PATENT**

- 29. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1 through 28 above.
- 30. Plaintiff denies the allegations of Paragraph 30.
- 31. Plaintiff denies the allegations of Paragraph 31.

PRAYER FOR RELIEF

Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
Randall T. Garteiser